

Nepal's Federal Civil Service Bill: An Opportunity to Advance Administrative Federalism

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| SUMMARY

Nepali federalism has completed eight years, however, the Federal Civil Service Act that makes the administrative federalism dynamic has not been formulated. This delay has hampered the effective implementation of federalism. Various interest groups have differing positions on the Federal Civil Service Bill. Consequently, even after extensive discussions in the State Order and Good Governance Committee, the bill was withdrawn during its first term in the House of Representatives.

The bill has now been reintroduced in the House of Representatives, but it still faces conflicting interests from political parties, employee groups, trade unions, and other stakeholders. It is crucial for the House of Representatives to focus on making the bill more people-oriented, considering the broader interests of the overall administrative mechanism.

A harmonious relationship between the government and its employees is vital to achieving a competent, inclusive, professional, high-morale, and ethical administrative system necessary for effectively delivering state services. Therefore, the bill needs to be amended with the welfare of the majority of employees at its core, disregarding the interests of specific groups. Personnel administration is pivotal in ensuring smooth and coordinated relations between the three levels of government in a federal system. This bill presents an opportunity to enhance administrative federalism, and the federal parliament must seize this opportunity effectively.

| INTRODUCTION

The federal system was implemented in Nepal after the promulgation of the constitution in 2015. But even after eight years have passed, the Federal Civil Service Act has not been formulated which has hindered the implementation of federalism. Local and provincial governments have not been able to manage and regulate employees, and the development of employee capabilities and formation of structural foundation has been halted.

There have been attempts to create this important law. In 2019, a related bill was registered in the House of Representatives but after intensive discussion in the Committee on State Affairs and Good Governance, the government withdrew it. After a long delay, on March 4, 2024, the Federal Civil Service Bill was registered again in the House of Representatives.

In this Political Situation Update, the drafting of the Federal Civil Service Bill, its initial registration and withdrawal from the House of Representatives and the registration of the new draft have been discussed. The delay due to the conflicting interests of various interest groups is also reviewed here. Apart from this, some new provisions in the latest bill have also been accounted for.

RATIONAL OF THE ACT

The *Civil Service Act, 1993 and the Civil Service Regulations, 1993* guided the public administration under the erstwhile unitary governance system. But after the governance system of the country changed from a unitary monarchical system to a federal republican system, there were extensive changes in general administration. Therefore, the Federal Civil Service Act is needed to regulate the administration mechanism in the changed context and address the professional development of the employees. This is an umbrella act and other regulations will be formulated based on this law. This is also the basic law for provincial and local level civil service laws. Laxmi Devi Pandey, President of the National Association of Rural Municipalities in Nepal and Chairperson of Hupsekot Rural Municipality of Nawalparasi (Bardaghat Susta East), said that due to the lack of Federal Civil Service Act, the career development of the employees has stopped. She added, "Because there is no law, it has become difficult for the local governments to find skilled human resources who can implement their plans, and this has a direct impact on development work and service delivery."¹

Politics, finance, and administration are three important aspects of federalism. Administrative federalism is what drives the other two aspects. However, due to the absence of the Federal Civil Service Act, administrative federalism has weakened and it has also impacted political and fiscal federalism. For managing civil services, the constitution has provisions regarding employee integration and the functioning of Federal Public Service Commission and Provincial Public Service Commission. According to this, Provincial Public Service Commissions have been established in all the seven provinces and have started working. However, some of these works have remained incomplete due to the lack of the Federal Civil Service Act. In absence of this law, it has been found that laws related to provincial civil services and local services have either not been formulated or even when laws have been made, they have not been implemented. This is affecting the public services delivery at all three levels.

There are five different categories of employees at the provincial and local levels.² Principal Secretaries and Chief Administrative Officers appointed by the federal government belong to the first category. Their deployment, performance evaluation, promotion and transfer are under the control of the federal government. Due to lack of focus on this issue from the federal government, more than 100 local levels are running without the Chief Administrative Officer.³ The second category includes the employees who were transferred to the provincial and local levels from the federal level after the employee integration process. They are frustrated due to dilemma regarding intergovernmental transfer and lack of opportunity for career development. Third, there are employees appointed temporarily by the local and provincial governments. The terms, conditions and benefits of their services are as prescribed by the local and provincial levels. They lack access to strong legal protection and are considered as 'second class'. The fourth category includes employees working permanently at the local level before the implementation of the 2015 Constitution. Their condition is similar to that of employees in the third category. The fifth category includes the employees appointed by the provincial government through the Provincial Public Service Commission in accordance with their own civil service acts. In this context, the Federal Civil Service Act is essential to address the problems of confusion among the employees working in the same office and insecurity felt by them.

BILL IN LIMBO

The KP Oli-led government formed after the 2017 election drafted the Federal Civil Service Bill. It was registered in the House of Representatives on February 10, 2019. On February 22, 2019, this bill reached the Committee on State Affairs and Good Governance. The committee

² Adhikari, Bishnu and Parshuram Upadhyay. 2024. Nepal's New Federal Civil Service Bill. The Asia Foundation, April 24. Available at <https://asiafoundation.org/2024/04/24/nepals-new-federal-civil-service-bill/>; accessed on May 17, 2024.

³ News Agency Nepal. 2080 B.S. Pramukh Prashaskiya Adhikrit Nahunda Ek Saya Bhandi Badhi Sthaniya Tahako Kam Prabhabit. Kantipur, Magh 7. Available at <https://ekantipur.com/news/2024/01/21/the-work-of-the-local-level-is-affected-due-to-the-absence-of-the-chief-administrative-officer-42-54.html>; accessed on May 20, 2024.

¹ Interview with Pandey on April 14, 2024.

held 61 meetings to discuss this bill. Finally, on June 29, 2020, it was passed by majority and submitted again to the House of Representatives.⁴ But the then Prime Minister and Chair of Nepal Communist Party (NCP) KP Oli dissolved the House of Representative twice due to internal conflict within his party. After that, parliamentary activities were overshadowed and the further processing on the bill got obstructed.⁵

After the decision to dissolve the parliament for the second time was annulled by the Supreme Court, the government led by Oli was replaced by the new government led by Nepali Congress Chair Sher Bahadur Deuba on July 13, 2021. On October 5, 2021, the Cabinet meeting decided to withdraw the Federal Civil Service Bill from the House of Representatives. Then the bill was withdrawn on the basis of the majority voting in the meeting of the House of Representatives on October 8, 2021.⁶ The then Federal Affairs and General Administration Minister Lal Babu Pandit said that the decision to withdraw Federal Civil Service Bill was based on political revenge. He stated, "The bill was almost passed during that time. It had reached the Parliament after receiving majority votes in the Committee on State Affairs and Good Governance. But then our government led by KP Oli collapsed. And the new government led by Sher Bahadur Deuba threw it out of parliament. At that time there was a consensus on most of the matters. The employees had expressed few disagreements. We had made a provision to form only one official trade union instead of having many trade unions like now which they were unhappy about."⁷

There were many disagreements among political parties on the provisions of the bill. Due to the lack of consensus among the political parties, the bill was passed on the basis of majority voting from the Committee on State Affairs and Good Governance. According to Lal

⁴ State Affairs and Good Governance Committee Secretariate. 2078 B.S. Rajya Byabastha Tatha Sushasan Samitiko Barshik Pratibedan, pp .47 .Available at <https://hr.parliament.gov.np/uploads/attachments/2f2ydlkcllssvocf.pdf>; accessed on May 10, 2024.

⁵ Baahrakhari. 2080 B.S. Samsad ra Sarkarle Puranai Niyati Dohoryaula Ki Karmacharilai Kanun Dela ? Bhadau 18. ta elbaliava <https://baahrakhari.com/detail/398711>; .2024 ,5 yaM no dessecca

⁶ Nagarik. 2078 B.S. Sanghiya Nijamati Sewa Bidheyak 2075 Samsadbata Firta. Asoj 21. Available at <https://nagariknews.nagariknetwork.com/politics/642631-1633683077.html>; accessed on May 5, 2024.

⁷ Interview with the leader of UML and then Minister of Federal Affairs and General Administration Lal Babu Pandit on April 11, 2024.

Babu Pandit, the then Communist Party of Nepal Unified Marxist-Leninist (CPN-UML) group within the CPN argued that the key positions such as Principal Secretary and Secretary of the province and the Chief Administrative Officers of the local level should be under the federal level and the provincial civil service and local civil service could fill the other posts, while the Communist Party of Nepal Maoist Center (CPN-Maoist Center) group within the CPN held the view that the provincial and local levels should be able to appoint all the employees themselves.⁸ Apart from that, the bill was stuck for a long time due to lack of consensus regarding the provisions including employee trade unions. Various trade unions had protested against the provisions of the bill.⁹

The employees had protested time and again expressing their dissatisfaction over several clauses in the bill. In 2021, the Committee on State Affairs and Good Governance made a provision in the bill to fill up the vacant seats of the gazetted third class category (section officer) through open competition and through internal promotion where 80 percent of the seats would be filled from open competition and 20 percent would be filled from internal promotion. Then the civil servants of non gazetted category protested against it.¹⁰ Their demand was that open competition should be reduced from 80 to 50 percent in gazetted third class category. After the withdrawal of the bill from the Parliament, the general election dates were announced. After the election, the government led by Pushpa Kamal Dahal started the process of drafting a new bill.

On April 3, 2023, the Joint Trade Union Network formed a Joint Struggle Committee and started an intense protest to pass the Federal Civil Service Act by addressing their demands. The network included Nepal Civil Service Employees Organization, Nepal Civil Service Employees' Union, Nepal National Employees Organization (Civil), United Government Employees Organization Nepal and

⁸ Interview with the leader of UML and then Minister of Federal Affairs and General Administration Lal B.2024 ,11 lirpA no tidnaP uba

⁹ BBC News Nepali. 2020. Nijamati Bidheyak: Yi Hun Karmachari Asantushta Bannuka Karan.June 30. Available at <https://www.bbc.com/nepali/news-53232753>.2024 ,16 yaM no dessecca ;

¹⁰ Setopati. 2080 B.S. Sanghiya Nijamati Bidheyakka Prabdhanke Karmacharibatai Birodh. Asar 14. Available at https://www.setopati.com/social/210014?fb_comment_id=2988461537897882_2988925961184773; accessed on May 7, 2024.

Forum of Madhesi Civil Servants' Nepal.¹¹ The Cabinet meeting held on May 3, 2023 formed a committee under the leadership of then Deputy Prime Minister and Defense Minister Purna Bahadur Khadka to negotiate with the protesting employees.¹² The negotiations ended with agreement to address the employee demands.

The day before the celebration of Civil Service Day, on September 7, 2023, the Council of Ministers decided to take the Federal Civil Service Bill to the parliament. Although there were more than dozen outstanding issues in the bill, the decision to send the bill to the Parliament was made in a hurry to provide positive impression to the civil service employees on the Civil Service Day. The main point of contention was regarding whether to keep the provincial secretary under the federal or provincial civil service. The government had also faced difficulties as other officials including the under secretaries had objected to the proposal regarding employee 'level' and 'class' categories in the bill.¹³ Therefore, despite the decision by the Council of Ministers the bill did not reach the parliament.

In October 2023, the employees at local level staged a strike asking the government to address their demands regarding the Federal Civil Service Bill. Their demands included inter-tier transfers, proper management of employees integrated to the province and local level, fair and equal career advancement opportunities for employees at all three tiers of government, and mandatory employee welfare fund at the local level.¹⁴ On October 14, 2023, the local level employees withdrew the protest program after 19 points agreement was made with the government to address the demands.¹⁵ Even after this,

¹¹ See the press release of that network <https://www.necseu.org.np/uploads/b51893ae7e0a5851bd321568da2480d78b2dbd21.jpeg>; accessed on May 6, 2024.

¹² Setopati. 2080 B.S. Nijamati Karmachariharusanga Barta Garna Sarkarle Banayo Upapradhanmantri Khadkako Netritwama Samiti. Baishakh 21. Available at <https://www.setopati.com/politics/301231>; accessed on May 7, 2024.

¹³ Ghimire, Rabindra. 2080 B.S. Pradhanmantri Kurdai Nijamati Bidheyak, Atirikta Sachib Rakhna Dabab. Onlinekhabar, Asoj 7. Available at <https://www.onlinekhabar.com/2023/09/1370425>; accessed on 4202 ,8 yaM.

¹⁴ Onlinekhabar. 2080 B.S. Sthaniya Tahaka Karmachari Kam Rokera Andolanma, Sewa Prabhabit. Asoj 19. Available at <https://www.onlinekhabar.com/2023/10/1376904>; accessed on May 7, 2024.

¹⁵ Onlinekhabar. 2080 B.S. Sthaniya Tahaka Karmachari ko Andolan Firta. Available at <https://www.onlinekhabar.com/2023/10/1376904>; accessed on May 7, 2024.

the bill could not move forward. Instead, the session of parliament ended on November 2, 2023 and the bill remained in the Prime Minister's Office.

The provincial and local levels voiced the need for this bill during the first and second meetings of the National Coordination Council as well as in other forums since it was crucial for the implementation of administrative federalism. Additionally, the employees' trade unions had also put pressure for the passage of the bill. After the universal demand, the bill was finalized on February 29, 2024 and registered in the House of Representatives on March 4, 2024.

| CONTRADICTIONARY STAKES

In the first term of the House of Representatives, the Federal Civil Service Bill was submitted to the Parliament and was withdrawn even after it was passed by the committee. The new bill submitted by the government led by Pushpa Kamal Dahal in the second term of the House of Representatives is also not without controversies. Even after the Council of Ministers decided to submit it to the parliament, it was kept in limbo for several months. Instead, many interests were revealed in the clauses of the bill before it was submitted to the parliament. It has not been able to take a solid shape because the employees in various tiers, trade unions, political parties have all tried to make the law favorable to themselves.

According to journalist Rishiram Paudyal, who has been consistently reporting on the process of drafting the bill, there were extensive discussions on the issue of introducing a new position of an Additional Secretary between the position of Secretary and the Joint Secretary in the bill, and a consensus had been almost reached when the high-ranking officials of the Prime Minister's Office and the Ministry of Finance opposed it.¹⁶ The position of the Additional Secretary was introduced in the bill to facilitate promotion. The employees who became joint secretaries through promotion were in favor of it while those coming from open competition were against the new provision.¹⁷ They took this stance as it would facilitate

¹⁶ Interview with the journalist of Kantipur daily Rishiram Paudyal on May 7, 2024.

¹⁷ Sejuwal, Kalendra and Rishiram Paudyal. 2080 B.S. Nijamati Bidheyakma Sahasachibharuko Kaichi. Kantipur, Bhadau 10. Available

speedy promotions leading to shortened job tenure. The Under Secretaries objected when the system of Additional Secretary was removed.¹⁸ On August 23, 2023, about 50 Under Secretaries met the Chief Secretary Dr. Baikuntha Aryal and expressed their objection regarding the removal of the position of Additional Secretary from the Federal Civil Service Bill.¹⁹ According to an Under Secretary of the Ministry of Federal Affairs and General Administration who was involved in the drafting of the bill, the bill was stuck in the Prime Minister's Office for a long time because the crux of the dispute of the bill was in the hierarchical level of the civil service.²⁰

Federal, provincial and local levels have their own stand on the appointment of the Chief Administrative Officers in the local government. The provincial government wants to recruit all the employees in the province including the Chief Administrative Officer and send them to the local level through the Provincial Public Service Commission. However, the federal government is trying to deploy the Chief Administrative Officer to the local level for 10 years. The local governments argue that it will choose the Chief Administrative Officer and other employees based on its needs and circumstances. According to journalist Krishna Gyawali, apart from the issue of Chief Administrative Officer, there are other points of dispute.²¹ He mentioned the disputes including the selection of provincial secretaries through province or federal government, what percentage of employees in civil service should be selected through open competition, what percentage should be selected through internal competition, and file promotion and examination system in internal competition. These disagreements confirm the existence of many small interests mixed in its formation.

at <https://ekantipur.com/news/2023/08/27/16930985795961471.html>; accessed on May 10, 2024.

¹⁸ Prashasan. 2080 B.S. Atirikta Sachib Hatayekoma Upasachibharuko Apatti. Bhadau 5. Available at <https://www.prasashan.com/2023/08/22/464705/>; accessed on May 10, 2024.

¹⁹ Ghimire, Rabindra. 2080 B.S. Atirikta Sachib Magdai Mukhya Sachibsanga Upasachibharuko Khabardari. Onlinekhabar, Bhadau 7. Available at <https://www.onlinekhabar.com/2023/08/1355426> accessed on May 10, 2024.

²⁰ Sejuwal, Kalendra and Makar Shrestha. 2080 B.S. Nijamati Bidheyakma Karmachariko Saudabaji. Kantipur, Aswin 17. Available at <https://ekantipur.com/news/2023/10/04/employee-bargaining-in-civil-bills-53-37.html>; accessed on May 5, 2024.

²¹ Interview with the journalist of Onlinekhabar Krishna Gyawali on April 15, 2024.

WHAT IS THE NEW BILL LIKE?

The new bill is different from the old bill that was withdrawn from the parliament in 2019. There are differences between these two bills specifically regarding service groups in civil service, reservation system, age limit, and percentage of open competition, and internal promotion. In the existing practice of civil services, 45 percent seats are reserved for various under-represented communities. The bill introduced in 2019 also had 45 percent reserved seats and 33 percent of them were for women. In the new bill, the reservation for various communities has been increased to 49 percent and 50 percent of the reserved posts have been assigned for women. In the reserved seats, the percentage of different clusters has been allocated, in which the proportion of Madhesi community was decreased slightly, while the percentage of Dalit, Tharu and Muslim people has increased. In the new bill, the 49 percent reserved seats are considered to be 100 percent and 15.3 percent out of that is reserved for Madhesi communities. However, in the old bill, 45 percent of reserved seats was considered to be 100 percent and 20 percent of that was reserved for Madhesi communities.

Key Provisions in the Bill

- 49% seats are allocated under reserved quota, half of them for women
- Compulsory retirement at the age of 60 years
- Service entry age limit: 32 years for men and 37 years for women
- Multiple trade unions, even in provincial and local level (this continues the current practice of trade unions leaning to political parties)
- Province Secretaries are kept under Provincial Civil Service, however, they will be deployed by the federal government for the initial 10 years
- Chief Administrative Officer are under Local Civil Service, however, they will be deployed by the federal government for the initial 10 years

In the 2019 bill, the cluster of services only included (a) Nepal Engineering Service (b) Nepal Agriculture and Forestry Service (c) Nepal Administration Service and (d) Nepal Health Service. In the bill currently in the parliament, the cluster of services has been increased to 6. Nepal Health Service from the old bill has been removed and Nepal Justice Service, Nepal Foreign Service and Nepal

Audit Service have been added. The old bill tried to bring health service under the civil service, but the new bill has not included it. It was not included after the ministers from Nepali Congress in the government disagreed saying that the health service was a sensitive issue and if the health service was included in the civil service, the deployment and management of the staff would become complicated and health workers could not be sent to the villages.²²

In the bill introduced in the parliament in 2019, the mandatory retirement age limit was set at 58 years and the current practice is the same. But in the latest bill, the retirement age has been increased to 60 years. The age limit for voluntary retirement was 50 years, but now it has been set to 55 years.

The new bill seems a little liberal in the process of recruiting employees through open competition. In the bill introduced in 2019, there was a provision of recruiting 70 percent of the employees for non-gazetted second class category through open competition, 20 percent through seniority and performance evaluation and 10 percent through internal competition. But as per the current bill, 80 percent of this position will be fulfilled through open competition, 10 percent through seniority and performance evaluation and 10 percent through internal competition. Compared to 2019 bill, the new bill is less favorable for the fresh applicants of non-gazetted first class category. In the 2019 bill, there was a provision to recruit 40 percent of the employees through open competition, 40 percent through seniority and performance evaluation and 20 percent through performance evaluation for this position. The provision in the current bill, however, says that all the employees in this category will be appointed through promotion. Similarly, in the gazetted third class category, there was a provision to recruit 70 percent through open competition, 10 percent through seniority and performance evaluation, and 20 percent through performance evaluation in the old bill, while the new bill aims to recruit 65 percent through open competition, 10 percent through seniority and performance evaluation and 25 percent through performance evaluation.

In the previous bill, the age limit for entering civil service was 35 years for both men and women, while in the new bill, it is 32 years for men and 37 years for women. In the current practice, the age limit for women and men are 40 years and 35 years respectively. There were eight types of leave that civil servants could apply for in the 2019 bill, but the types of leave have been increased to 10 in the current bill. The two added leave types are for tourism and wedding.

In the 2019 bill, there was a provision that there would be only one official trade union representing all civil service employees for collective dialogue and agreement for their rights and interests. This is not the case with the bill currently in parliament. This bill has maintained the trend of forming trade unions along the party lines and opened the way to form trade unions even at the provincial and local levels.

In the previous bill, it was said that the posts of the Principal Secretary of the provincial government and the Secretary of the provincial ministry were considered to be under the federal civil service, while the current bill considers the Secretary of the provincial ministry to be part of the provincial civil service; however the federal government will deploy the employee to these positions for 10 years. Similarly, in the previous bill, the post of Chief Administrative Officer of the local level was under the federal civil service, but now it is assumed that it is a local civil service; but the federal government will assign its employee to that position for 10 years.

| OUTSTANDING ISSUES

Even though the Federal Civil Service Bill has been registered for the second time in the parliament, there are still many disputes over it. Rather than the political parties having a clear opinion in such a dispute, the interests of the employee groups, trade unions and many other groups have started to manifest. Therefore, there is no possibility that all the subjects in the bill will be passed as they are. 215 amendment proposals have already been submitted to the parliament.²³

²² Ghimire, Rabindra. 2080 B.S. Swasthya Sewalai Nijamati Antargat Rakhne Prastab Hatyo. Onlinkhabar, Bhadau 4. Available at <https://www.onlinekhabar.com/2023/08/1355426>; accessed on May 10, 2024.

²³ Interview with the Chair of State Affairs and Good Governance Committee in the House of Representatives Ramhari Khatiwada on April 24, 2024.

There is no consensus among the main parties Nepali Congress, CPN-UML, and CPN-Maoist Center on the new bill. Other parties also have mutually conflicting views on it. The CPN-Maoist Center and other parties are of the position that the Chief Administrative Officer and Provincial Secretary should be subordinate to the provincial government to strengthen and institutionalize federalism. Nepali Congress and UML have the stance that the Chief Administrative Officer and Provincial Secretary should be deployed from the federal level in order to maintain coordination among the federal, provincial and local levels.²⁴

Key Outstanding Issues

- Should the Chief Administrative Officer and the Province Secretary be deployed by the federal government for the initial 10-years period or not?
- Should there be multiple trade unions as in current practice or only one official trade union?
- Should there be a position of Additional Secretary in between Secretary and Joint Secretary?
- What should be the ratio of internal promotion and open competition in the new recruitment positions?

The main political parties remained undecided for a long time on whether to appoint the provincial secretaries from the federal government or to give such authority to the provincial civil service. The Nepali Congress and the CPN-Maoist Center could not reach to an agreement on how to manage the secretaries in the provincial ministries for a long time.²⁵ On the one hand, while the parties have been unable to reach an agreement, the trade unions close to the same parties have been protesting with various demands and issues, which has caused the Federal Civil Service Bill to becoming the center of controversy. In some cases, it has also been found that the issues of political parties and employees have been mixed up. Since the political parties tend not to be vocal and have tendency

²⁴ Sharma, Bhuwan. 2080 B.S. Kina Rokiyo Nijamati Bidheyak? Nagarik News, Bhadau 28. Available at <https://nagariknews.nagariknetwork.com/politics/1293941-1694743834.html>; accessed on May 5, 2024.

²⁵ Ghimire, Rabindra. 2080 B.S. Pradhanmantri Kurdai Nijamati Bidheyak, Atirikta Sachib Rakhna Dabab. Onlinekhabar, Asoj 7. Available at <https://www.onlinekhabar.com/2023/09/1370425>; accessed on May 8, 2024.

to push for the employees' trade unions, it makes the trade unions look dominant in this process.

The bill seems to have paid a lot of attention to the convenience of employees in terms of facilities, promotion and transfer. However, this bill looks weak in terms of making services and facilities easier and simpler for the citizens. Although the preamble of the bill states that the civil service will be held accountable, it is not clear who it would be accountable to. Administration and legal expert Kashiraj Dahal believes that civil service should be accountable to the people.²⁶ Although some experts had demanded that the bill should include civil service is accountable to the public in writing, such suggestion has been deliberately ignored. Speaking at the theoretical discussion on this bill in the House of Representatives, independent Member of Parliament (MP) Amresh Kumar Singh alleged that the bill is not people-oriented but employee-oriented. According to Nepali Congress' General Secretary and MP Gagan Kumar Thapa, due to the structural error of the Nepali administration, instead of becoming servants of the people, the employees have become like the rulers, and to correct it, the bill has to be amended through cross-party discussions. In the same way, MP from Rastriya Swatantra Party Toshima Karki argued that the service recipient should also have a role in evaluating the performance of employees, while CPN-UML MP Ishwari Gharti said that attention should be paid not only to the service facilities of the employees but also to the service facilities that the public should receive.²⁷

Former Chair of Public Service Commission and former Secretary Umesh Mainali says, "This bill is against the spirit of federalism. The decision made to send the Chief Administrative Officers to the local level from the federal level for 10 years does not carry the essence of federalism. The provision of transferring the joint secretary in one year and the secretary as and when needed might lead to instability. Although it is a bill targeted to the current federal system, it looks similar to the earlier Civil Service Act in essence. Instead of promoting the employees on

²⁶ Dahal, Kashiraj. 2080 B.S. Nijamati Sewa Bidheyakle Dhyan Dinuparne chha Kura. Setopati, Asoj 26. Available at <https://www.setopati.com/opinion/313716>; accessed on May 7, 2024.

²⁷ Views expressed during Theoretical Discussion on the Federal Civil Service Bill in the House of Representatives on April 3, 2024. Available at <https://hr.parliament.gov.np/np/videos/Chalpal-1712164228>; accessed on May 10, 2024.

the basis of ability, the bill has provisioned for promotion on the basis of seniority. The provisions about trade unions and the dominance of the federal government remains the same.”²⁸

According to Nepali Congress MP Kantika Sejuwal, the traditional practice of making laws by keeping the Singhadurbar and its surroundings at the center has been repeated in this bill as well. She said, “In terms of the promotion criteria, the current bill ignores providing the points based on work done in remote areas.”²⁹

Umesh Mainali still doubts that this bill will be passed anytime soon. He says, “There are multiple groups with vested interests in the bureaucracy. They will not let this bill to move forward.”³⁰ Sharada Prasad Trital, another former secretary of the Nepal government said that the Federal Civil Service Act, which was supposed to be enacted after the promulgation of the constitution, could not be enacted even after eight years because of the employees’ trade unions.³¹ While the formation of trade union is the right of the employees, the current practice of trade unions being formed on the basis of political party affiliations has been criticized as it has prevented the civil administration from becoming professional, efficient and result-oriented. Therefore, the government’s attempt to create a single official trade union as in the old bill failed after pressure from all sides, and the new bill has a provision to open partisan trade unions even at the provincial and local levels, just like the current practice.³² CPN-UML MP Raghuji Pant has opined that all parties

should make a joint effort to keep only one official trade union, as trade unions divided between parties have led to division in civil administration and reduced work efficiency.³³

Ramhari Khatiwada, the Chair of the parliament’s Committee on State Affairs and Good Governance, admits that the interests of many people have been intertwined in this bill. He says, “Some want the provision of additional secretary, others do not want it. Some want to have clause that states that the employee transferred to province can come back to the federal level while others do not want employee to be transferred from one province to another. There have been different proposals on various issues. We will discuss with multiple stakeholders and move forward with agreement.”³⁴

Without a cordial relationship between the government and the civil administration, the competent, inclusive, professional, high morale and ethical administration mechanism needed to have an effective operation of the services provided by the state cannot be achieved. Therefore, it is necessary to amend the bill by keeping the welfare of the larger community of the employees at the center, ignoring the vested interests of a particular interest groups. In order to further strengthen the provincial and local levels, discussion should be directed towards how the administrative bodies can be made stronger and agile, how can the capacity of the employees working at the provincial and local levels be increased and how can their quality be improved to build a strong administrative network.

CONCLUSION

Many interest groups have their own stake on the Federal Civil Service Bill. Due to this, the bill was withdrawn from the House of Representatives in its first term, even after a long discussion in the Committee on State Affairs and Good Governance. The labor, time and resources of the

²⁸ Views expressed by Umesh Mainali, the former Secretary of government of Nepal and former chair of Public Service Commission during the Democracy Dialogue discussion program jointly organized by Martin Chautari and DRCN on ‘Federal Civil Service Act: Content and the Delay’ held on April 16, 2024.

²⁹ Views expressed by MP Kantika Sejuwal during the Democracy Dialogue discussion program jointly organized by Martin Chautari and DRCN on ‘Federal Civil Service Act: Content and the Delay’ held on April 16, 2024.

³⁰ Views expressed by Umesh Mainali, the former Secretary of government of Nepal and former chair of Public Service Commission during the Democracy Dialogue discussion program jointly organized by Martin Chautari and DRCN on ‘Federal Civil Service Act: Content and the Delay’ held on April 16, 2024.

³¹ Sharma, Shobha. 2080 B.S. Trade Union le Yasari Dhwasta Pareka Chhan Nijamati Sewa. Setopati, Asoj 18. Available at <https://www.setopati.com/politics/313197>; accessed on May 7, 2024.

³² Ghimire, Rabindra. 2080 B.S. Dalsambaddha Trade Union Kholna Nadine Prastabbata Pachhi Hatyo Sarkar. Onlinekhabar, Bhadau 3 . Available at <https://www.onlinekhabar.com/2023/08/1353149>; accessed on May 9, 2024.

³³ Views expressed during Theoretical Discussion on the Federal Civil Service Bill in the House of Representatives on April 3, 2024. Available at <https://hr.parliament.gov.np/np/video/18146>; accessed on May 10, 2024.

³⁴ Interview with the chair of State Affairs and Good Governance Committee in the House of Representatives Ramhari Khatiwada on April 24, 2024.

committee that held 61 meetings to draft and discuss the bill was wasted.

Now, although this bill has re-entered the parliament for the second time, there are still many controversial issues. As long as the focus is on which clauses and sub-clauses can cause profit or loss to certain individuals or interest groups, the Federal Civil Service Act that embraces the spirit of federalism cannot be formulated. Therefore, it is imperative to focus on making the overall administration system public-oriented. When discussing this bill, it is better to interact with experts and stakeholders. So, it feels essential to correspond with representatives of the provincial and local levels and include their suggestions while discussing the bill.

The Federal Civil Service Act is considered the backbone of civil administration and it should ensure that the appointments are competitive and inclusive, transfers should be predictable and promotions should be systematic. Laws made by demoralizing employees will not give expected results. Therefore, the attention of this bill should be directed towards creating a people-oriented administration, taking into account the interests of the entire civil service mechanism. In the federal system, the civil service indeed plays an important role in coordination and cooperation among the three levels of government. Therefore, this bill provides an opportunity to advance Nepal's administrative federalism and the Federal Parliament must take an opportunity to pass the bill in a timely manner.



Founded in 2014, Democracy Resource Center Nepal (DRCN) is a national non-governmental organization dedicated to the study and research of social and political issues. Since its establishment, DRCN has consistently undertaken in-depth and evidence-based research into various aspects of Nepal's transitional political landscape, including the implementation of federalism, local-level restructuring, and election observation. The outcomes of these studies are shared with stakeholders, fostering discussions and debates. DRCN's overarching objective revolves around advancing efficient governance within Nepal's federal framework through these rigorous research endeavors and thoughtful discourse.



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